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MICROSOFT CORPORATION  
11  
12

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 MICROSOFT CORPORATION, a  
Washington corporation,

16 Plaintiff,

17 v.

18 INTRAX GROUP, INC., d/b/a, SURPLUS  
19 COMPUTERS, a California corporation;  
20 MICHAEL MAK, an individual; and JOHN  
DOES 1-5,

21 Defendants.  
22

No. 07-CV-01840-CW

DECLARATION OF ENOCH REMICK IN  
SUPPORT OF PLAINTIFF MICROSOFT  
CORPORATION'S MOTION FOR  
SUMMARY JUDGMENT

23 I, Enoch Thijs Remick, declare as follows:  
24

25 1. I am currently employed as the Worldwide Academic Licensing Manager in  
26 the Worldwide Public Sector by plaintiff Microsoft Corporation ("Microsoft") and have  
27 worked at Microsoft since 2001. I make this Declaration upon personal knowledge and, if  
28 called to testify, could and would testify competently to the facts set forth herein.

1                                    **A.     Professional Experience**

2            2.        In my current position, I address licensing and pricing issues for Microsoft's  
3 academic customers throughout the world. Prior becoming the Worldwide Academic  
4 Licensing Manager in 2005, I was an Academic Licensing Specialist for the U.S. sector. I  
5 was also previously employed by Microsoft from 1990 to 1996. I hold Bachelor of Science  
6 degrees in both finance and economics from the American University in Washington, DC.

7            3.        I make this Declaration upon personal knowledge and, if called to testify,  
8 could and would testify competently to the facts set forth herein. I will receive no  
9 compensation in connection with my work in this matter other than my normal salary. Based  
10 on my employment duties and responsibilities and in the ordinary course of Microsoft's  
11 business, I have gained and have personal knowledge of the facts set forth below or have  
12 reason to believe them to be true.

13                                    **B.     Microsoft Student Media Software**

14            4.        In my current position as the Worldwide Academic Licensing Manager with  
15 Microsoft, I have knowledge regarding the licensing and distribution of Student Media  
16 software in the United States and worldwide.

17            5.        Microsoft and its partners distribute Student Media software through three  
18 specific academic volume licensing programs: Campus Agreement, School Agreement, and  
19 Academic Select. Microsoft offers Student Media at prices roughly equivalent to the discs'  
20 manufacturing and transportation costs, which amounts to a discount in excess of 90% off the  
21 regular retail price. The academic licensing programs were created to provide low cost  
22 software to qualified educational institutions for use by their students, faculty, and staff.  
23 Microsoft distributes Student Media at a steep discount to provide educational institutions in  
24 the United States, in developing nations, and worldwide low cost access to the latest software  
25 technology and information in furtherance of their students' educational development. The  
26 programs through which Student Media is distributed (and the software distributed through  
27 those programs) are intended only for qualified educational users and the license agreements  
28

1 under which such media is distributed restrict the distribution of such media to those qualified  
2 educational users.

3 6. In the United States, an institution enrolled in one of the above listed academic  
4 licensing programs may order Student Media throughout the term of its agreement only from  
5 Authorized Education Resellers ("AERs"). Microsoft AERs are specially trained and  
6 authorized to distribute Student Media to qualified educational users. Academic institutions  
7 and students are prohibited from redistributing Student Media because the programs through  
8 which Student Media is distributed are designed to provide low cost software to qualified  
9 educational users, and not to the general public.

10 7. As part of its international licensing and distribution programs, Microsoft also  
11 imposes geographic restrictions on the distribution of Microsoft products, including Student  
12 Media. For example, Student Media distributed to Europe, the Middle East, or Africa, is not  
13 licensed for use in North America.

14 **C. Defendants' Distribution Of Microsoft Student Media Software**

15 8. As described more fully in the declaration of my colleague, Miles Hawkes,  
16 manufacturing codes present on Microsoft Student Media software distributed Defendants  
17 indicate that the software was manufactured in Ireland or Germany. Additionally, work order  
18 numbers (WO1070578, WO1155785, WO1160733, WO1160735, and WO1160734) present  
19 on certain of that software indicate it was manufactured in Ireland. Based on the  
20 manufacturing codes present on the software described in Mr. Hawkes declaration, I know the  
21 Student Media software was manufactured in Ireland or Germany and was not licensed for  
22 distribution in the United States. Moreover, based upon the above listed work order numbers,  
23 I know that the software marked with those work order numbers was manufactured in Ireland  
24 by a company called Sonopress and assembled in Ireland by a company called Moduslink.  
25 That Student Media software was not licensed for distribution in the United States.

26 9. Microsoft Student Media is marked with the following copyright warning:  
27  
28

1 All use subject to volume license agreement. Do not make illegal copies of  
2 this disc. Not for retail or OEM Distribution. Not for resale.

3 A true and correct copy of an image of the front and back of representative sample of  
4 Microsoft Student Media software in its packaging, like that described above, is attached  
5 hereto as Exhibit 1.

6 **D. The Defendants And Their Suppliers Are Not AERs**

7 10. I have consulted Microsoft's database listing all AERs and found no record  
8 showing that Defendants Intrax Group (d/b/a Surplus Computers), Michael Mak, or their  
9 known suppliers of Microsoft Student Media (Technology Enterprises, James Craghead, or  
10 Globe 2000 Corp.), is an AER or is otherwise authorized to distribute Student Media in the  
11 United States. Even if one of the Defendants or their suppliers were authorized to distribute  
12 Student Media (which they are not), it would have to qualify end users consistent with the  
13 academic volume licensing programs.

14 11. Neither Intrax Group (d/b/a Surplus Computers), Michael Mak, nor their  
15 known suppliers of Microsoft Student Media (Technology Enterprises, James Craghead, or  
16 Globe 2000 Corp.) is authorized by Microsoft to import to the United States Microsoft  
17 software licensed for distribution outside the United States.

18  
19 I declare under penalty of perjury under the laws of the United States of America that  
20 the foregoing is true and correct.

21  
22 Executed this 5<sup>th</sup> day of July, 2008.

23  
24 

25 Enoch Thijs Remick  
26  
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following parties, by the means designated below, this 10<sup>th</sup> day of July, 2008:

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☐ Email  
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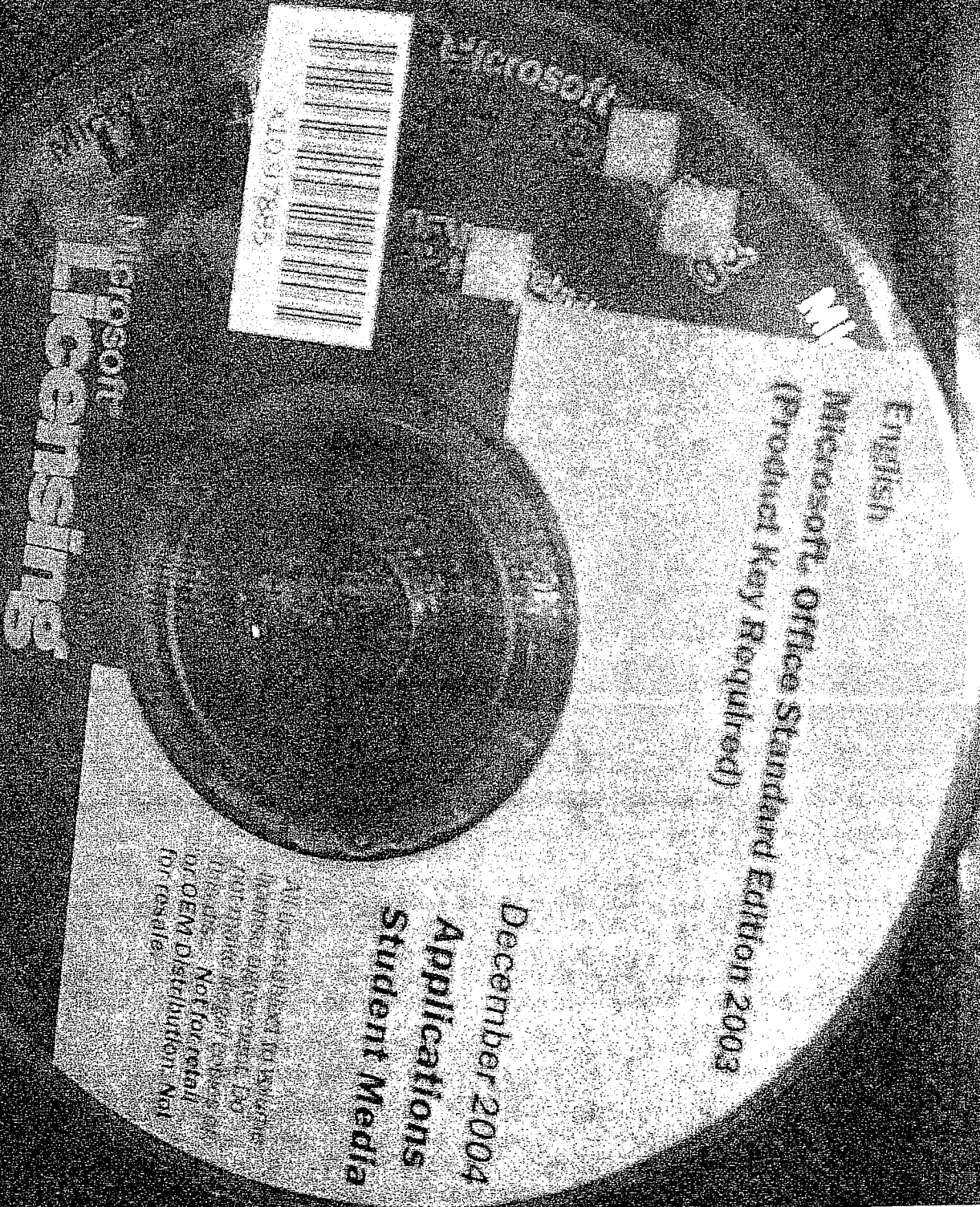
/s/ Jeremy E. Roller

Scott T. Wilsdon (*pro hac vice*)  
Jeremy E. Roller (*pro hac vice*)  
YARMUTH WILSDON CALFO PLLC

Attorneys for Plaintiff **MICROSOFT  
CORPORATION**

EXHIBIT 1







OFFICE 2003 WIN32 ENGLISH DISK KIT MYL  
STUDENT MEDIA CD

MO: W01149810  
P/N: 021-07132

